Senate



General Assembly

File No. 530

February Session, 2012

Substitute Senate Bill No. 418

Senate, April 18, 2012

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT ADOPTING THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT AND THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

- 1 Section 1. (NEW) (Effective July 1, 2013) Sections 1 to 11, inclusive, of
- 2 this act may be cited as the Uniform Electronic Legal Material Act.
- 3 Sec. 2. (NEW) (Effective July 1, 2013) As used in sections 1 to 11,
- 4 inclusive, of this act:
- 5 (1) "Electronic" means relating to technology having electrical,
- 6 digital, magnetic, wireless, optical, electromagnetic or similar
- 7 capabilities;
- 8 (2) "Legal material" means, whether or not in effect:
- 9 (A) The Constitution of the state of Connecticut;
- 10 (B) The general statutes of the state of Connecticut;

- 11 (C) The regulations of Connecticut state agencies; and
- 12 (D) The reported decisions of the following state courts: The
- 13 Supreme Court, the Appellate Court and the Superior Court;
- 14 (3) "Official publisher" means: (A) For the Constitution of the state
- of Connecticut, the Secretary of the State;
- 16 (B) For the general statutes of the state of Connecticut, the Joint
- 17 Committee on Legislative Management;
- 18 (C) For the regulations of Connecticut state agencies, the Secretary
- 19 of the State; and
- 20 (D) For the reported decisions of the Supreme Court, the Appellate
- 21 Court and the Superior Court, the Commission on Official Legal
- 22 Publications;
- 23 (4) "Official record" means the version of legal material designated
- 24 by an official publisher as the official version of such material;
- 25 (5) "Publish" means to display, present or release to the public, or
- 26 cause to be displayed, presented or released to the public by the
- 27 official publisher;
- 28 (6) "Record" means information that is inscribed on a tangible
- 29 medium or that is stored in an electronic or other medium and is
- 30 retrievable in perceivable form;
- 31 (7) "State" means a state of the United States, the District of
- 32 Columbia, Puerto Rico, the United States Virgin Islands, or any
- 33 territory or insular possession subject to the jurisdiction of the United
- 34 States.
- Sec. 3. (NEW) (Effective July 1, 2013) Sections 1 to 11, inclusive, of
- 36 this act shall apply to all legal material in an electronic record that is
- 37 designated as official under section 4 of this act and first published
- 38 electronically on or after July 1, 2013.

39 Sec. 4. (NEW) (Effective July 1, 2013) (a) If an official publisher 40 publishes legal material only in an electronic record, the publisher 41 shall: (1) Designate the electronic record as official; and (2) comply 42 with sections 5, 7 and 8 of this act.

- (b) An official publisher that publishes legal material in an electronic record and also publishes the material in a record other than an electronic record may designate the electronic record as official if the publisher complies with sections 5, 7 and 8 of this act.
- 47 Sec. 5. (NEW) (Effective July 1, 2013) An official publisher of legal 48 material in an electronic record that is designated as official under 49 section 4 of this act shall authenticate the electronic record. To 50 authenticate an electronic record, the official publisher shall provide a 51 method for a user to determine that the electronic record received by 52 the user from the official publisher is unaltered from the official record 53 published by the official publisher.
- 54 Sec. 6. (NEW) (Effective July 1, 2013) (a) Legal material in an 55 electronic record that is authenticated under section 5 of this act is 56 presumed to be an accurate copy of the legal material.
- (b) If another state has adopted a law substantially similar to the provisions of sections 1 to 11, inclusive, of this act, legal material in an electronic record that is designated as official and authenticated by the 60 official publisher in that state is presumed to be an accurate copy of the legal material.
 - (c) A party contesting the authentication of legal material in an electronic record authenticated under section 5 of this act has the burden of proving by a preponderance of the evidence that the record is not authentic.
 - Sec. 7. (NEW) (Effective July 1, 2013) (a) An official publisher of legal material in an electronic record that is or was designated as official under section 4 of this act shall provide for the preservation and security of the record in an electronic form or a form that is not

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- (b) If legal material is preserved in an electronic record under subsection (a) of this section, the official publisher shall: (1) Ensure the integrity of the electronic record; (2) provide for backup and disaster recovery of the electronic record; and (3) ensure the continuing usability of the legal material.
- Sec. 8. (NEW) (*Effective July 1, 2013*) An official publisher of legal material in an electronic record that is required to be preserved under section 7 of this act shall ensure that the material is reasonably available for use by the public on a permanent basis.
- Sec. 9. (NEW) (*Effective July 1, 2013*) In implementing the provisions of sections 1 to 11, inclusive, of this act, an official publisher of legal material in an electronic record shall consider:
- 83 (1) Standards and practices of other jurisdictions;
 - (2) The most recent standards regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records, as promulgated by national standard-setting bodies and any standards or guidelines established by the State Librarian or the Public Records Administrator in accordance with sections 11-8 and 11-8a of the general statutes;
- 90 (3) The needs of users of legal material in an electronic record;
- 91 (4) The views of governmental officials and entities and other 92 interested persons; and
 - (5) To the extent practicable, methods and technologies for the authentication of, preservation and security of, and public access to, legal material which are compatible with the methods and technologies used by other official publishers in this state and in other states that have adopted a law substantially similar to the provisions of sections 1 to 11, inclusive, of this act.

99 Sec. 10. (NEW) (Effective July 1, 2013) In applying and construing the

- 100 provisions of the Uniform Electronic Legal Material Act, consideration
- shall be given to the need to promote uniformity of the law with
- 102 respect to its subject matter among states that enact such uniform
- 103 provisions.
- Sec. 11. (NEW) (Effective July 1, 2013) The provisions of sections 1 to
- 105 10, inclusive, of this act modify, limit and supersede the Electronic
- 106 Signatures in Global and National Commerce Act, 15 USC 7001 et seq.,
- but do not modify, limit or supersede Section 101(c) of said act, 15 USC
- 108 7001(c), or authorize electronic delivery of any of the notices described
- in Section 103(b) of said act, 15 USC 7003(b).
- 110 Sec. 12. (Effective January 1, 2015) Sections 12 to 43, inclusive, of this
- act may be cited as the Uniform Certificate of Title for Vessels Act.
- Sec. 13. (Effective January 1, 2015) As used in sections 12 to 43,
- inclusive, of this act:
- 114 (1) "Barge" means a vessel that is not self-propelled or fitted for
- propulsion by sail, paddle, oar or similar device;
- 116 (2) "Builder's certificate" means a certificate of the facts of build of a
- vessel described in 46 CFR 67.99;
- 118 (3) "Buyer" means a person that buys or contracts to buy a vessel;
- (4) "Cancel", with respect to a certificate of title, means to make the
- 120 certificate ineffective;
- 121 (5) "Certificate of origin" means a record created by a manufacturer
- or importer as the manufacturer's or importer's proof of identity of a
- vessel. "Certificate of origin" includes a manufacturer's certificate or
- statement of origin and an importer's certificate or statement of origin.
- "Certificate of origin" does not include a builder's certificate;
- 126 (6) "Certificate of title" means a record, created by the department
- pursuant to section 19 of this act or by a governmental agency of

128 another jurisdiction under the law of that jurisdiction, that is

- designated as a certificate of title by the department or such agency
- and is evidence of ownership of a vessel;
- 131 (7) "Commissioner" means the Commissioner of Motor Vehicles;
- 132 (8) "Dealer" means a person, including a manufacturer, in the
- 133 business of selling vessels;
- 134 (9) "Department" means the Department of Motor Vehicles;
- 135 (10) "Documented vessel" means a vessel covered by a certificate of
- documentation issued pursuant to 46 USC 12105. "Documented vessel"
- does not include a foreign-documented vessel;
- 138 (11) "Electronic" means relating to technology having electrical,
- 139 digital, magnetic, wireless, optical, electromagnetic or similar
- 140 capabilities;
- 141 (12) "Electronic certificate of title" means a certificate of title
- 142 consisting of information that is stored solely in an electronic medium
- and is retrievable in perceivable form;
- 144 (13) "Foreign-documented vessel" means a vessel the ownership of
- which is recorded in a registry maintained by a country other than the
- 146 United States that identifies each person that has an ownership interest
- in such vessel and includes a unique alphanumeric designation for the
- 148 vessel;
- 149 (14) "Good faith" means honesty in fact and the observance of
- reasonable commercial standards of fair dealing;
- 151 (15) "Hull identification number" means the alphanumeric
- designation assigned to a vessel pursuant to 33 CFR 181, as amended;
- 153 (16) "Lien creditor", with respect to a vessel, means:
- (A) A creditor that has acquired a lien on the vessel by attachment,
- 155 levy or the like;

156 (B) An assignee for benefit of creditors from the time of assignment;

- 157 (C) A trustee in bankruptcy from the date of the filing of the 158 petition; or
- (D) A receiver in equity from the time of appointment;
- 160 (17) "Owner" means a person with legal title to a vessel;
- 161 (18) "Owner of record" means the owner indicated in the files of the
- department or, if the files indicate more than one owner, the owner
- 163 first indicated;
- 164 (19) "Person" means an individual; corporation; business trust;
- 165 estate; trust; statutory trust; partnership; limited liability company;
- 166 association; joint venture; public corporation; government or
- 167 governmental subdivision, agency or instrumentality; or any other
- legal or commercial entity;
- 169 (20) "Purchase" means to take by sale, lease, mortgage, pledge,
- 170 consensual lien, security interest, gift or any other voluntary
- transaction that creates an interest in a vessel:
- 172 (21) "Purchaser" means a person that takes by purchase;
- 173 (22) "Record" means information inscribed on a tangible medium or
- 174 stored in an electronic or other medium that is retrievable in
- 175 perceivable form;
- 176 (23) "Secured party", with respect to a vessel, means a person:
- 177 (A) In whose favor a security interest is created or provided for
- 178 under a security agreement, whether or not any obligation to be
- 179 secured is outstanding;
- (B) Who is a consignor under article 9 of title 42a of the general
- 181 statutes; or
- (C) Who holds a security interest arising under section 42a-2-401,

section 42a-2-505, subdivision (3) of section 42a-2-711 or subsection (d) of section 42a-2A-724 of the general statutes;

- (24) "Secured party of record" means the secured party whose name is indicated as the name of the secured party in the files of the department or, if the files indicate more than one secured party, the one first indicated;
- 189 (25) "Security interest" means an interest in a vessel that secures 190 payment or performance of an obligation if the interest is created by 191 contract or arises pursuant to section 42a-2-401, section 42a-2-505, 192 subdivision (3) of section 42a-2-711 or subsection (d) of section 42a-2A-193 724 of the general statutes, including, but not limited to, any interest of 194 a consignor in a vessel in a transaction that is subject to article 9 of title 195 42a of the general statutes. "Security interest" does not include the 196 special property interest of a buyer of a vessel on identification of that 197 vessel to a contract for sale pursuant to section 42a-2-401 of the general 198 statutes, but a buyer may also acquire a security interest by complying 199 with article 9 of title 42a of the general statutes. Except as otherwise 200 provided in section 42a-2-505 of the general statutes, the right of a 201 seller or lessor of a vessel under article 2 of title 42a of the general 202 statutes or article 2A of title 42a of the general statutes to retain or 203 acquire possession of the vessel is not a security interest, but a seller or 204 lessor also may acquire a security interest by complying with article 9 205 of title 42a of the general statutes. The retention or reservation of title 206 by a seller of a vessel notwithstanding shipment or delivery to the 207 buyer under section 42a-2-401 of the general statutes is limited in effect 208 to a reservation of a security interest. Whether a transaction in the form 209 of a lease creates a security interest is determined by section 42a-1-203 210 of the general statutes;
- 211 (26) "Sign" means, with present intent to authenticate or adopt a record, to:
- 213 (A) Make or adopt a tangible symbol; or
- 214 (B) Attach to or logically associate with the record an electronic

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- 215 symbol, sound or process;
- 216 (27) "State" means a state of the United States, the District of
- 217 Columbia, Puerto Rico, the United States Virgin Islands, or any
- 218 territory or insular possession subject to the jurisdiction of the United
- 219 States;
- 220 (28) "State of principal use" means the state on whose waters a
- vessel is or will be used, operated, navigated or employed more than
- 222 on the waters of any other state during a calendar year;
- 223 (29) "Title brand" means a designation of previous damage, use or
- 224 condition that shall be indicated on a certificate of title;
- 225 (30) "Transfer of ownership" means a voluntary or involuntary
- 226 conveyance of an interest in a vessel;
- 227 (31) "Vessel" means any watercraft used or capable of being used as
- 228 a means of transportation on water, except:
- 229 (A) A seaplane;
- 230 (B) An amphibious vehicle for which a certificate of title is issued
- pursuant to chapter 247 of the general statutes or a similar statute of
- 232 another state;
- 233 (C) Watercraft less than nineteen and one-half feet in length and
- 234 propelled solely by sail, paddle or oar;
- 235 (D) Watercraft that operate only on a permanently fixed,
- 236 manufactured course and the movement of which is restricted to or
- 237 guided by means of a mechanical device to which the watercraft is
- attached or by which the watercraft is controlled;
- (E) A stationary floating structure that:
- (i) Does not have and is not designed to have a mode of propulsion
- 241 of its own;

242 (ii) Is dependent for utilities upon a continuous utility hookup to a 243 source originating on shore; and

- 244 (iii) Has no sewage facilities or has a permanent, continuous hookup 245 to a shoreside sewage system;
- 246 (F) Watercraft owned by the United States, a state or a foreign 247 government, or a political subdivision thereof; and
- 248 (G) Watercraft used solely as a lifeboat on another watercraft;
- 249 (32) "Vessel number" means the alphanumeric designation for a 250 vessel issued pursuant to 46 USC 12301 and chapter 268 of the general 251 statutes:
- 252 (33) "Written certificate of title" means a certificate of title consisting 253 of information inscribed on a tangible medium;
- 254 (34) "Agreement" has the same meaning as provided in subdivision 255 (3) of subsection (b) of section 42a-1-201 of the general statutes;
- 256 (35) "Buyer in ordinary course of business" has the same meaning as 257 provided in subdivision (9) of subsection (b) of section 42a-1-201 of the 258 general statutes;
- 259 (36) "Consumer goods" has the same meaning as provided in 260 subdivision (23) of subsection (a) of section 42a-9-102 of the general 261 statutes;
- 262 (37) "Debtor" has the same meaning as provided in subdivision (28) 263 of subsection (a) of section 42a-9-102 of the general statutes;
- 264 (38) "Knowledge" has the same meaning as provided in section 42a-265 1-202 of the general statutes;
- 266 (39) "Lease" has the same meaning as provided in subdivision (17) of subsection (a) of section 42a-2A-102 of the general statutes;
- 268 (40) "Lessor" has the same meaning as provided in subdivision (23)

- of subsection (a) of section 42a-2A-102 of the general statutes;
- 270 (41) "Notice" has the same meaning as provided in section 42a-1-202
- of the general statutes;
- 272 (42) "Sale" has the same meaning as provided in subdivision (1) of
- section 42a-2-106 of the general statutes;
- 274 (43) "Security agreement" has the same meaning as provided in
- subdivision (74) of subsection (a) of section 42a-9-102 of the general
- 276 statutes;
- 277 (44) "Seller" has the same meaning as provided in subdivision (1) of
- section 42a-2-103 of the general statutes;
- 279 (45) "Send" has the same meaning as provided in subdivision (36) of
- subsection (b) of section 42a-1-201 of the general statutes; and
- 281 (46) "Value" has the same meaning as provided in section 42a-1-204
- of the general statutes.
- Sec. 14. (NEW) (Effective January 1, 2015) Subject to section 38 of this
- act, the provisions of sections 12 to 43, inclusive, of this act shall apply
- to any transaction, certificate of title or record relating to a vessel, even
- 286 if the transaction, certificate of title or record was entered into or
- created before the effective date of sections 12 to 43, inclusive, of this
- 288 act.
- Sec. 15. (NEW) (Effective January 1, 2015) Unless displaced by a
- 290 provision of sections 12 to 43, inclusive, of this act, the principles of
- 291 law and equity supplement said sections.
- Sec. 16. (NEW) (Effective January 1, 2015) (a) The local law of the
- 293 jurisdiction under whose certificate of title a vessel is covered governs
- all issues relating to the certificate from the time the vessel becomes
- 295 covered by the certificate until the vessel becomes covered by another
- 296 certificate or becomes a documented vessel, even if no other
- relationship exists between the jurisdiction and the vessel or its owner.

(b) A vessel becomes covered by a certificate of title when an application for the certificate and the applicable fee are delivered to the department in accordance with sections 17 and 18 of this act or to the governmental agency that creates a certificate in another jurisdiction in accordance with the law of that jurisdiction.

- Sec. 17. (NEW) (*Effective January 1, 2015*) (a) Except as otherwise provided in subsections (b) and (c) of this section, the owner of a vessel for which Connecticut is the state of principal use shall deliver to the department an application for a certificate of title for the vessel, with the applicable fee, not later than twenty days after the later of:
- 308 (1) The date of a transfer of ownership; or
- 309 (2) The date this state becomes the state of principal use.
- 310 (b) An application for a certificate of title is not required for:
- 311 (1) A documented vessel;
- 312 (2) A foreign-documented vessel;
- 313 (3) A barge;

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- 314 (4) A vessel before delivery if the vessel is under construction or 315 completed pursuant to contract;
- 316 (5) A vessel held by a dealer for sale or lease; or
- 317 (6) A vessel designated by the manufacturer as having a model year
- of 2015 or earlier, and any vessel manufactured or assembled prior to
- January 1, 2016, for which the manufacturer or assembler has not
- designated a model year, other than the following vessels:
- 321 (A) A vessel for which a certificate of title has been issued by 322 another state when this state has become the state of principal use for
- 323 the vessel; or
- 324 (B) A vessel having this state as the state of principal use that was a

documented vessel or a foreign documented vessel when it becomes no longer a documented vessel or a foreign documented vessel.

- (c) The department may not issue, transfer or renew a certificate of title for a vessel issued pursuant to the requirements of 46 USC 12301, unless the department has created a certificate of title for the vessel or an application for a certificate for the vessel and the applicable fee has been delivered to the department.
- Sec. 18. (NEW) (*Effective January 1, 2015*) (a) Except as otherwise provided in sections 25 and 29 to 32, inclusive, of this act, only an owner may apply for a certificate of title.
- 335 (b) An application for a certificate of title shall be on a form that the commissioner prescribes, be signed by the applicant and contain:
- 337 (1) The applicant's name, the street address of the applicant's principal residence and, if different, the applicant's mailing address;
- 339 (2) The name and mailing address of each other owner of the vessel;
- 340 (3) The hull identification number for the vessel or, if none, an 341 application to the Department of Energy and Environmental
- 342 Protection for the issuance of a hull identification number for the
- 343 vessel;

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- 344 (4) The vessel number for the vessel or, if none issued by the 345 department, an application for a vessel number;
- 346 (5) A description of the vessel as required by the department, which shall include:
- (A) The official number for the vessel, if any, assigned by the United States Coast Guard;
- 350 (B) The name of the manufacturer, builder or maker;
- 351 (C) The model year or the year in which the manufacture or build of 352 the vessel was completed;

353 (D) The overall length of the vessel;

- 354 (E) The vessel type;
- 355 (F) The hull material;
- 356 (G) The propulsion type;
- 357 (H) The engine drive type, if any; and
- 358 (I) The fuel type, if any;
- 359 (6) An indication of all security interests in the vessel known to the applicant and the name and mailing address of each secured party;
- 361 (7) A statement that the vessel is not a documented vessel or a foreign-documented vessel;
- 363 (8) If the application is made in connection with a transfer of 364 ownership, the transferor's name, street address and, if different, 365 mailing address, the sales price, if any, and the date of the transfer;
- 366 (9) If the vessel previously was registered or titled in another 367 jurisdiction, a statement identifying each jurisdiction known to the 368 applicant in which the vessel was registered or titled; and
- 369 (10) Any further information the commissioner reasonably requires 370 to identify the vessel and to enable the commissioner to determine 371 whether the owner is entitled to a certificate of title and the existence 372 or nonexistence of security interests in the vessel.
- 373 (c) In addition to the information required by subsection (b) of this 374 section, an application for a certificate of title may contain an electronic 375 communication address of the owner, transferor or secured party.
- 376 (d) Except as otherwise provided in sections 29 to 32, inclusive, of this act, an application for a certificate of title shall be accompanied by:
- 378 (1) A certificate of title signed by the owner shown on the certificate 379 that:

- 380 (A) Identifies the applicant as the owner of the vessel; or
- 381 (B) Is accompanied by a record that identifies the applicant as the 382 owner; or
- 383 (2) If there is no certificate of title:

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- 384 (A) If the vessel was a documented vessel, a record issued by the 385 United States Coast Guard which shows the vessel is no longer a 386 documented vessel and identifies the applicant as the owner;
- 387 (B) If the vessel was a foreign-documented vessel, a record issued 388 by the foreign country which shows the vessel is no longer a foreign-389 documented vessel and identifies the applicant as the owner; or
 - (C) In all other cases, a certificate of origin, bill of sale or other record that to the satisfaction of the department identifies the applicant as the owner.
 - (e) A record submitted in connection with an application is part of the application. The department shall maintain the record in its files.
 - (f) The department may require that an application for a certificate of title be accompanied by payment or evidence of payment of any or all fees and taxes payable by the applicant under law of this state, other than fees paid in connection with the application or the acquisition or use of the vessel.
- Sec. 19. (NEW) (*Effective January 1, 2015*) (a) Unless an application for a certificate of title is rejected pursuant to subsection (c) or (d) of this section, the department shall create a certificate for the vessel in accordance with subsection (b) of this section after delivery of an application to the department that complies with section 18 of this act.
 - (b) If the department creates electronic certificates of title, the department shall create an electronic certificate unless in the application the secured party of record or, if none, the owner of record, requests that the department create a written certificate.

(c) Except as otherwise provided in subsection (d) of this section, the department may reject an application for a certificate of title only if:

- 411 (1) The application does not comply with section 18 of this act;
- 412 (2) The application does not contain documentation sufficient for
- 413 the department to determine whether the applicant is entitled to a
- 414 certificate;
- 415 (3) There is a reasonable basis for concluding that the application is
- 416 fraudulent or issuance of a certificate would facilitate a fraudulent or
- 417 illegal act; or
- 418 (4) The application does not comply with state law.
- (d) The department shall reject an application for a certificate of title
- 420 for a vessel that appears from the application to be a documented
- vessel or a foreign-documented vessel.
- (e) The department may cancel a certificate of title created by the
- 423 department only if the department:
- 424 (1) Could have rejected the application for the certificate under
- 425 subsection (c) of this section;
- 426 (2) Is required to cancel the certificate pursuant to this section or
- 427 section 22, 29 or 30 of this act; or
- 428 (3) Receives satisfactory evidence that the vessel is a documented
- vessel or a foreign-documented vessel.
- 430 Sec. 20. (NEW) (Effective January 1, 2015) (a) A certificate of title shall
- 431 contain:
- 432 (1) The date the certificate was created;
- 433 (2) The name of the owner of record and, if not all owners are listed,
- an indication that there are additional owners indicated in the files of
- 435 the department;

- 436 (3) The mailing address of the owner of record;
- 437 (4) The hull identification number;
- 438 (5) The information listed in subdivision (5) of subsection (b) of 439 section 18 of this act;
- (6) Except as otherwise provided in subsection (b) of section 25 of this act, the name and mailing address of the secured party of record, if any and, if not all secured parties are listed, an indication that there are other security interests indicated in the files of the department; and
- 444 (7) Any other data the commissioner prescribes.
- (b) Nothing in sections 12 to 43, inclusive, of this act shall preclude the department from noting on a certificate of title the name and mailing address of a secured party that is not a secured party of record.
- (c) If the files of the department indicate that a vessel previously was registered or titled in a foreign country, the department shall indicate on the certificate of title that the vessel was registered or titled in that country.
- (d) A written certificate of title shall contain a form that all owners indicated on the certificate may sign to evidence consent to a transfer of an ownership interest to another person. The form shall include a certification, signed under penalty of false statement, that the statements made are true and correct to the best of each owner's knowledge, information and belief.
- Sec. 21. (NEW) (*Effective January 1, 2015*) (a) For each record relating to a certificate of title submitted to the department, the department shall:
- (1) Maintain the hull identification number and all the information submitted with the application pursuant to subsection (b) of section 18 of this act to which the record relates, including the date and time the record was delivered to the department;

- 465 (2) Maintain the files for public inspection; and
- 466 (3) Index the files of the department pursuant to subsection (b) of this section.
- (b) The department shall maintain in its files the information contained in all certificates of title created pursuant to section 19 of this act. The information in the files of the department shall be searchable by the hull identification number of the vessel, the vessel number, the name of the owner of record and any other method used by the department.
 - (c) The department shall maintain in its files, for each vessel for which it has created a certificate of title, the name of each secured party known to the department, the name of each person known to the department to be claiming an ownership interest and all stolen property reports the department has received.
- (d) Upon request, for safety, security or law enforcement purposes, the department shall provide to federal, state or local government the information in its files relating to any vessel for which the department has issued a certificate of title.
 - (e) Except as otherwise provided by the general statutes, the information required pursuant to section 20 of this act is a public record.
 - Sec. 22. (NEW) (*Effective January 1, 2015*) (a) On creation of a written certificate of title, the department shall send the certificate to the secured party of record or, if none, to the owner of record, at the address indicated for that person in the files of the department. On creation of an electronic certificate of title, the department shall send a record evidencing the certificate to the owner of record and, if there is one, to the secured party of record, at the address indicated for that person in the files of the department. The department may send the record to the person's mailing address or, if indicated in the files of the department, an electronic address.

(b) If the department creates a written certificate of title, any such written certificate shall cancel any such electronic certificate. The department shall maintain in its files the date and time of such cancellation.

- (c) Before the department creates an electronic certificate of title, any person holding a written certificate of title shall surrender such written certificate. If the department creates an electronic certificate, the department shall destroy or otherwise cancel any such surrendered written certificate and maintain in its files the date and time of such destruction or other cancellation. If a written certificate being canceled is not destroyed, the department shall indicate on the face of the certificate that it has been canceled.
- Sec. 23. (NEW) (*Effective January 1, 2015*) A certificate of title is prima facie evidence of the accuracy of the information in the record that constitutes the certificate. In any criminal proceeding, a certified copy of a certificate of title shall be prima facie evidence as to the ownership of a vessel.
- Sec. 24. (NEW) (*Effective January 1, 2015*) Possession of a certificate of title does not in and of itself provide a right to obtain possession of a vessel. Garnishment, attachment, levy, replevin or other judicial process against the certificate shall not be effective to determine possessory rights to the vessel. Sections 12 to 43, inclusive, of this act do not prohibit enforcement under law of this state other than said sections of a security interest in, levy on, or foreclosure of a statutory or common law lien on a vessel. Absence of an indication of a statutory or common law lien on a certificate shall not invalidate the lien.
- Sec. 25. (NEW) (Effective January 1, 2015) (a) Except as otherwise provided in this section or section 38 of this act, a security interest in a vessel may be perfected only by delivery to the department of an application for a certificate of title that identifies the secured party and otherwise complies with section 18 of this act. The security interest shall be perfected on the later of delivery to the department of the application and all applicable fees or attachment of the security interest

- 529 under section 42a-9-203 of the general statutes.
- (b) If the interest of a person named as owner, lessor, consignor or bailor in an application for a certificate of title delivered to the department is a security interest, the application sufficiently identifies the person as a secured party. Identification on the application for a certificate of a person as owner, lessor, consignor or bailor shall not in and of itself be a factor in determining whether the person's interest is a security interest.
 - (c) If the department has created a certificate of title for a vessel, a security interest in the vessel may be perfected by delivery to the department of an application, in such form as the department may require, to have the security interest added to the certificate. The application shall be signed by an owner of the vessel or by the secured party and shall include:
- 543 (1) The name of the owner of record;

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- 544 (2) The name and mailing address of the secured party;
- 545 (3) The hull identification number for the vessel; and
- 546 (4) If the department has created a written certificate of title for the vessel, the certificate.
 - (d) A security interest perfected under subsection (c) of this section shall be perfected on the later of delivery to the department of the application and all applicable fees or attachment of the security interest under section 42a-9-203 of the general statutes.
 - (e) On delivery of an application that complies with subsection (c) of this section and payment of all applicable fees, the department shall create a new certificate of title pursuant to section 19 of this act and deliver the new certificate or a record evidencing an electronic certificate pursuant to subsection (a) of section 22 of this act. The department shall maintain in its files the date and time of delivery of the application to the department.

(f) If a secured party assigns a perfected security interest in a vessel, the receipt by the department of a statement providing the name of the assignee as secured party shall not be required to continue the perfected status of the security interest against creditors of and transferees from the original debtor. A purchaser of a vessel subject to a security interest which obtains a release from the secured party indicated in the files of the department or on the certificate takes free of the security interest and of the rights of a transferee unless the transfer is indicated in the files of the department or on the certificate.

- 568 (g) The provisions of this section shall not apply to a security 569 interest:
 - (1) Created in a vessel by a person during any period in which the vessel is inventory held for sale or lease by the person or is leased by the person as lessor if the person is in the business of selling vessels;
- 573 (2) In a barge or any other vessel for which a certificate of title is not 574 permitted under sections 12 to 43, inclusive, of this act; or
 - (3) In a vessel before delivery if the vessel is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to the department.
 - (h) When a certificate of documentation for a documented vessel is deleted or canceled, if a security interest in the vessel was valid immediately before deletion or cancellation against a third party as a result of compliance with 42 USC 31321, the security interest is and remains perfected until the earlier of four months after cancellation of the certificate or the time the security interest becomes perfected under this section.
 - (i) A security interest in a vessel arising under section 42a-2-401 or 42a-2-505 of the general statutes, subdivision (3) of section 42a-2-711 of the general statutes or subsection (d) of section 42a-2A-724 of the general statutes shall be perfected when it attaches but shall become unperfected when the debtor obtains possession of the vessel, unless

before the debtor obtains possession the security interest is perfected pursuant to subsection (a) or (c) of this section.

- (j) A security interest in a vessel as proceeds of other collateral shall be perfected to the extent provided in section 42a-9-315 of the general statutes.
- (k) A security interest in a vessel perfected under the law of another jurisdiction shall be perfected to the extent provided in subsection (d) of section 42a-9-316 of the general statutes.
- Sec. 26. (NEW) (*Effective January* 1, 2015) (a) A secured party indicated in the files of the department as having a security interest in a vessel shall deliver a termination statement to the department in such form as the department prescribes and, on the debtor's request, to the debtor, by the earlier of:
 - (1) Twenty days after the secured party receives a signed demand from an owner for a termination statement and there is no obligation secured by the vessel subject to the security interest and no commitment to make an advance, incur an obligation or otherwise give value secured by the vessel; or
 - (2) If the vessel is consumer goods, thirty days after there is no obligation secured by the vessel and no commitment to make an advance, incur an obligation or otherwise give value secured by the vessel.
 - (b) If the department has created a written certificate of title and delivered such certificate to a secured party and a termination statement is required under subsection (a) of this section, the secured party shall, not later than the date required by subsection (a) of this section, deliver the certificate to the debtor or to the department with the statement. If the certificate is lost, stolen, mutilated, destroyed or otherwise unavailable or illegible, the secured party shall, not later than the date required by subsection (a) of this section, deliver with the statement an application for a replacement certificate meeting the

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- requirements of section 32 of this act.
- 622 (c) On delivery to the department of a termination statement 623 authorized by the secured party, the security interest to which the 624 statement relates ceases to be perfected. If the security interest to 625 which the statement relates was indicated on the certificate of title, the 626 department shall create a new certificate and deliver such new 627 certificate or a record evidencing an electronic certificate. The 628 department shall maintain in its files the date and time of delivery to 629 the department of the statement.
- (d) A secured party that fails to comply with this section shall be liable for any loss that the secured party had reason to know might result from its failure to comply and that could not reasonably have been prevented and for the cost of an application for a certificate of title under section 18 or 32 of this act.
 - (e) The commissioner may require a secured party indicated in the files of the department as having a security interest in a vessel to electronically transmit to the department a termination statement evidencing release of its security interest in a vessel.
- Sec. 27. (NEW) (*Effective January 1, 2015*) (a) Upon voluntary transfer of an ownership interest in a vessel covered by a certificate of title, the following rules apply:
 - (1) If the certificate is a written certificate of title and the transferor's interest is noted on the certificate, the transferor shall sign the certificate and deliver it to the transferee. If the transferor does not have possession of the certificate, the person in possession of the certificate shall have a duty to facilitate the transferor's compliance with this subdivision. A secured party shall not have a duty to facilitate the transferor's compliance with this subdivision if the proposed transfer is prohibited by the security agreement.
- 650 (2) If the certificate of title is an electronic certificate of title, the 651 transferor shall sign and deliver to the transferee a record evidencing

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the transfer of ownership to the transferee.

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- (3) The transferee shall have a right enforceable by specific performance to require the transferor to comply with the provisions of subdivision (1) or (2) of this subsection.
- (b) The creation of a certificate of title identifying the transferee as owner of record shall satisfy subsection (a) of this section.
 - (c) Failure to comply with subsection (a) of this section or to apply for a new certificate of title shall not render a transfer of ownership of a vessel ineffective. Except as otherwise provided in section 28, section 29, subsection (a) of section 33 or section 34 of this act, a transfer of ownership without compliance with subsection (a) of this section shall not be effective against another person claiming an interest in the vessel.
 - (d) A transferor that complies with subsection (a) of this section shall not be liable as owner of the vessel for an event occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.
- Sec. 28. (NEW) (*Effective January 1, 2015*) Except as otherwise provided in section 42a-9-337 of the general statutes, a certificate of title or other record required or authorized by sections 12 to 43, inclusive, of this act shall be effective even if it contains incorrect information or does not contain required information.
- Sec. 29. (NEW) (*Effective January 1, 2015*) (a) For the purposes of this section, "secured party's transfer statement" means a record signed by the secured party of record stating:
- (1) That there has been a default on an obligation to the secured party of record secured by the vessel;
- 679 (2) The secured party of record is exercising or has exercised post-680 default remedies with respect to the vessel;

(3) By reason of the exercise, the secured party of record has the right to transfer the ownership interest of an owner, and the name of the owner;

- 684 (4) The name and last known mailing address of the owner of 685 record and the secured party of record;
- (5) The name of the transferee;
- 687 (6) Other information required by subsection (b) of section 18 of this act; and
- 689 (7) One of the following:
- 690 (A) The certificate of title is an electronic certificate;
- (B) The secured party does not have possession of the written certificate of title created in the name of the owner of record; or
- 693 (C) The secured party is delivering the written certificate of title to 694 the department with the secured party's transfer statement.
- (b) Unless the department rejects a secured party's transfer statement for a reason stated in subsection (c) of section 19 of this act, after delivery to the department of the statement and payment of fees and taxes payable under the law of this state, other than fees paid in connection with the statement or the acquisition or use of the vessel, the department shall:
- 701 (1) Accept the statement;
- 702 (2) Amend the files of the department to reflect the transfer; and
- 703 (3) If the name of the owner whose ownership interest is being 704 transferred is indicated on the certificate of title:
- 705 (A) Cancel the certificate even if the certificate has not been delivered to the department;
- 707 (B) Create a new certificate indicating the transferee as owner; and

708 (C) Deliver the new certificate or a record evidencing an electronic certificate.

- (c) An application submitted under subsection (a) of this section or the creation of a certificate of title under subsection (b) of this section shall not in and of itself be a disposition of the vessel and shall not in and of itself relieve the secured party of its duties under article 9 of title 42a of the general statutes.
- Sec. 30. (NEW) (Effective January 1, 2015) (a) For purposes of this section:
- 717 (1) "By operation of law" means pursuant to a law or judicial order 718 affecting ownership of a vessel:
- 719 (A) Because of death, divorce or other family law proceeding, 720 merger, consolidation, dissolution or bankruptcy;
- (B) Through the exercise of the rights of a lien creditor or a person having a lien created by statute or rule of law; or
- 723 (C) Through other legal process; and
- 724 (2) "Transfer-by-law statement" means a record signed by a 725 transferee stating that by operation of law the transferee has acquired 726 or has the right to acquire an ownership interest in a vessel.
- 727 (b) A transfer-by-law statement shall contain:
- 728 (1) The name and last known mailing address of the owner of 729 record and the transferee and the other information required pursuant 730 to subsection (b) of section 18 of this act;
- 731 (2) Documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;
- 733 (3) A statement that:
- 734 (A) The certificate of title is an electronic certificate of title;

735 (B) The transferee does not have possession of the written certificate of title created in the name of the owner of record; or

- 737 (C) The transferee is delivering the written certificate to the 738 department with the transfer-by-law statement; and
- 739 (4) Except for a transfer described in subparagraph (A) of 740 subdivision (1) of subsection (a) of this section, evidence that 741 notification of the transfer and the intent to file the transfer-by-law 742 statement has been sent to all persons indicated in the department's 743 files as having an interest, including a security interest, in the vessel.
 - (c) Unless the department rejects a transfer-by-law statement for a reason stated in subsection (c) of section 19 of this act or because the statement does not include documentation satisfactory to the department as to the transferee's ownership interest or right to acquire the ownership interest, after delivery to the department of the statement and payment of fees and taxes payable under the law of this state other than sections 12 to 43, inclusive, of this act in connection with the statement or with the acquisition or use of the vessel, the department shall:
- 753 (1) Accept the statement;

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- 754 (2) Amend its files to reflect the transfer; and
- 755 (3) If the name of the owner whose ownership interest is being transferred is indicated on the certificate of title:
- 757 (A) Cancel the certificate even if the certificate has not been 758 delivered to the department;
- (B) Create a new certificate indicating the transferee as owner;
- 760 (C) Indicate on the new certificate any security interest indicated on 761 the canceled certificate, unless a court order provides otherwise; and
- 762 (D) Deliver the new certificate or a record evidencing an electronic certificate.

(d) The provisions of this section shall not apply to a transfer of an interest in a vessel by a secured party under sections 42a-9-601 to 42a-9-628, inclusive, of the general statutes.

- Sec. 31. (NEW) (*Effective January 1, 2015*) (a) Except as otherwise provided in section 29 or 30 of this act, if the department receives, unaccompanied by a signed certificate of title, an application for a new certificate that includes an indication of a transfer of ownership or a termination statement, the department may create a new certificate under this section only if:
- 773 (1) All other requirements under sections 18 and 19 of this act are met;
- 775 (2) The applicant provides an affidavit stating facts showing the 776 applicant is entitled to a transfer of ownership or termination 777 statement;
 - (3) The applicant provides the department with satisfactory evidence in such form as the department prescribes that notification of the application has been sent to the owner of record and all persons indicated in the department's files as having an interest, including a security interest, in the vessel, not less than forty-five days have passed since the notification was sent, and the department has not received an objection from such owner or persons; and
 - (4) The applicant submits any other information required by the department as evidence of the applicant's ownership or right to terminate the security interest, and the department has no credible information indicating theft, fraud or an undisclosed or unsatisfied security interest, lien or other claim to an interest in the vessel.
 - (b) The department shall indicate in a certificate of title created under subsection (a) of this section that the certificate was created without submission of a signed certificate or termination statement. Unless credible information indicating theft, fraud or an undisclosed or unsatisfied security interest, lien or other claim to an interest in the

vessel is delivered to the department not later than one year after creation of the certificate, on request in a form and manner required by the department, the department shall remove the indication from the certificate.

- (c) Unless the department determines that the value of a vessel is less than five thousand dollars, before the department creates a certificate of title under subsection (a) of this section, the department may require the applicant to post a bond or provide an equivalent source of indemnity or security. The bond, indemnity or other security shall be in an amount equal to twice the value of the vessel as determined by the department. The bond, indemnity or other security shall be in a form required by the department and provide for indemnification of any owner, purchaser or other claimant for any expense, loss, delay or damage, including reasonable attorney's fees and costs, but not including incidental or consequential damages, resulting from creation or amendment of the certificate.
- (d) Unless the department receives a claim for indemnity not later than one year after creation of a certificate of title under subsection (a) of this section, on request in a form and manner required by the department, the department shall release any bond, indemnity or other security.
- Sec. 32. (NEW) (*Effective January 1, 2015*) (a) If a written certificate of title is lost, stolen, mutilated, destroyed or otherwise becomes unavailable or illegible, the secured party of record or, if no secured party is indicated in the department's files, the owner of record may apply for and, by furnishing information satisfactory to the department, obtain a replacement certificate in the name of the owner of record.
- (b) An applicant for a replacement certificate of title shall sign the application and, except as otherwise permitted by the department, the application shall comply with section 18 of this act. The application shall include the existing certificate unless the certificate is lost, stolen, mutilated, destroyed or otherwise unavailable.

(c) A replacement certificate of title created by the department shall comply with section 20 of this act and indicate on the face of the certificate that it is a replacement certificate.

- (d) If a person receiving a replacement certificate of title subsequently obtains possession of the original written certificate, the person promptly shall destroy the original certificate of title.
- Sec. 33. (NEW) (*Effective January 1, 2015*) (a) A buyer in ordinary course of business shall have the protections afforded by subdivision (2) of section 42a-2-403 of the general statutes and subsection (a) of section 42a-9-320 of the general statutes even if an existing certificate of title was not signed and delivered to the buyer or a new certificate listing the buyer as owner of record was not created.
 - (b) Except as otherwise provided in sections 27 and 34 of this act, the rights of a purchaser of a vessel who is not a buyer in ordinary course of business or a lien creditor shall be governed by the provisions of title 42a of the general statutes.
 - Sec. 34. (NEW) (*Effective January 1, 2015*) (a) Subject to subsection (b) of this section, the effect of perfection and nonperfection of a security interest and the priority of a perfected or unperfected security interest with respect to the rights of a purchaser or creditor, including a lien creditor, shall be governed by the provisions of title 42a of the general statutes.
 - (b) If, while a security interest in a vessel is perfected by any method under section 25 of this act, the department creates a certificate of title that does not indicate that the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate:
 - (1) A buyer of the vessel, other than a person in the business of selling or leasing vessels of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel; and

(2) The security interest is subordinate to a conflicting security interest in the vessel that is perfected under section 25 of this act after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

- Sec. 35. (NEW) (*Effective January 1, 2015*) (a) The department shall retain the evidence used by the department to determine the accuracy of the information in its files relating to the current ownership of a vessel and the information on the certificate of title.
- (b) The department shall retain in its files all information received by the department regarding a security interest in a vessel for not less than ten years after the department receives a termination statement regarding the security interest. The information shall be accessible by the hull identification number for the vessel and any other methods provided by the department.
- (c) If a person submits a record to the department, or submits information that the department accepts, and requests an acknowledgment of the filing or submission, the department shall send to the person an acknowledgment showing the hull identification number of the vessel to which the record or submission relates, the information in the filed record or submission, and the date and time the record was received or the submission accepted. A request under this section shall contain the hull identification number and be delivered by means authorized by the department.
- (d) The department shall send or otherwise make available in a record the following information to any person that requests it and pays all applicable fees:
- (1) Whether the files of the department indicate, as of a date and time specified by the department, but not a date earlier than ten calendar days before the department received the request, any certificate of title, security interest or termination statement that relates to a vessel:

890 (A) Identified by a hull identification number designated in the 891 request;

- (B) Identified by a vessel number designated in the request; or
- (C) Owned by a person designated in the request;
- 894 (2) With respect to the vessel:
- (A) The name and address of any owner as indicated in the files of the department or on the certificate of title;
- (B) The name and address of any secured party as indicated in the files of the department or on the certificate, and the effective date of the information; and
- 900 (C) A copy of any termination statement indicated in the files of the 901 department and the effective date of the termination statement; and
- 902 (3) With respect to the vessel, a copy of any certificate of origin, 903 secured party transfer statement, transfer-by-law statement under 904 section 30 of this act and other evidence of previous or current 905 transfers of ownership.
 - (e) In responding to a request under this section, the department may provide the requested information in any medium, provided on request and upon payment of all applicable fees, the department shall communicate the requested information by issuing the department's written document.
- Sec. 36. (NEW) (*Effective January 1, 2015*) In applying and construing the provisions of the Uniform Certificate of Title for Vessels Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact such uniform provisions.
- 916 Sec. 37. (NEW) (*Effective January 1, 2015*) The provisions of sections 917 12 to 43, inclusive, of this act modify, limit, and supersede the federal 918 Electronic Signatures in Global and National Commerce Act, 15 USC

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919 7001, et seq., but do not modify, limit or supersede Section 101(c) of

- 920 said act, 15 USC 7001(c), or authorize electronic delivery of any of the
- notices described in Section 103(b) of said act, 15 USC 7003(b).
- 922 Sec. 38. (NEW) (Effective January 1, 2015) (a) The rights, duties and
- 923 interests flowing from a transaction, certificate of title or record
- 924 relating to a vessel which was validly entered into or created before
- 925 January 1, 2015, and would be subject to sections 12 to 43, inclusive, of
- 926 this act if it had been entered into or created on or after January 1,
- 927 2015, remain valid on and after January 1, 2015.
- 928 (b) Sections 12 to 43, inclusive, of this act do not affect an action or
- 929 proceeding commenced before January 1, 2015.
- 930 (c) Except as otherwise provided in subsection (d) of this section, a
- 931 security interest that is enforceable immediately before January 1, 2015,
- and would have priority over the rights of a person that becomes a lien
- 933 creditor at that time is a perfected security interest under sections 12 to
- 934 43, inclusive, of this act.
- 935 (d) A security interest in a vessel for which a certificate of title is
- 936 required under sections 12 to 43, inclusive, of this act that is perfected
- 937 immediately before January 1, 2015, remains perfected until the earlier
- 938 of:
- 939 (1) The time perfection would have ceased under the law under
- 940 which the security interest was perfected; or
- 941 (2) January 1, 2018.
- 942 (e) Sections 12 to 43, inclusive, of this act shall not affect the priority
- 943 of a security interest in a vessel if immediately before January 1, 2015,
- 944 the security interest is enforceable and perfected, and that priority is
- 945 established.
- 946 Sec. 39. (NEW) (*Effective January 1, 2015*) (a) The department shall be
- 947 paid the following fees: (1) For filing an application for a certificate of
- 948 title, twenty-five dollars; (2) for each security interest noted upon a

certificate of title or maintained in the electronic title file pursuant to subsection (b) of section 25 of this act, ten dollars; (3) for each record copy search, twenty dollars; (4) for each assignment of a security interest noted upon a certificate of title or maintained in the electronic title file, ten dollars; (5) for an application for a duplicate certificate of title, twenty-five dollars, provided such fee shall not be required for any such duplicate certificate of title; (6) for filing a notice of security interest, ten dollars; (7) for filing a termination statement relating to a security interest pursuant to section 26 of this act, ten dollars; (8) for filing a secured party's transfer statement pursuant to section 29 of this act, twenty-five dollars; (9) for filing a transfer-by-law statement pursuant to section 30 of this act, twenty-five dollars; (10) for filing an application for transfer of ownership or termination of a security interest without a certificate of title pursuant to section 31 of this act, twenty-five dollars; (11) for a certificate of search of the records of the department for each name or hull identification number searched against, twenty dollars; (12) for filing an assignment of security interest, ten dollars; (13) for search of a vessel certificate of title record, requested by a person other than the owner of record of such vessel, twenty dollars; and (14) for a certified copy of any documentation, information or other record maintained or created by the department, twenty dollars.

- (b) If an application, certificate of title or other document required to be mailed or delivered to the department under any provision of sections 12 to 43, inclusive, of this act is not delivered to the department within ten days from the time it is required to be mailed or delivered, the department shall collect, as a penalty, an amount equal to the fee required for the transaction.
- (c) Vessels leased to an agency of this state and vessels owned by the state, an agency of the state or a municipality, as defined in section 7-245 of the general statutes, shall be exempt from the fees imposed by this section.

981 Sec. 40. (NEW) (Effective January 1, 2015) (a) The commissioner shall

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prescribe and provide suitable forms of applications, certificates of title, notices of security interests and all other notices and forms necessary to carry out the provisions of sections 12 to 43, inclusive, of this act.

- (b) The commissioner may: (1) Make necessary investigations to procure information required to carry out the provisions of sections 12 to 43, inclusive, of this act; and (2) adopt and enforce reasonable rules to carry out the provisions of said sections of this act.
- 990 (c) The commissioner may adopt regulations, in accordance with the 991 provisions of chapter 54 of the general statutes, to provide for the 992 implementation of any of the provisions of sections 12 to 43, inclusive, 993 of this act and for the placement of additional indications on any 994 certificate of title concerning the condition of or status of title to any 995 vessel. An indication shall be placed on a certificate of title stating that 996 the vessel may be subject to security interests not shown on the 997 certificate when: (1) This state becomes the state of principal use of the 998 vessel from another state; (2) the vessel was not a documented or 999 foreign-documented vessel immediately prior to the application for the 1000 certificate of title; and (3) the immediately previous state of principal 1001 use of the vessel did not issue, or does not have a requirement for, a 1002 certificate of title for the vessel. Such regulations, as may be adopted 1003 by the commissioner, shall provide for an opportunity for a hearing, in 1004 accordance with the provisions of chapter 54 of the general statutes 1005 and section 41 of this act, for any person aggrieved by any action, 1006 omission to act or decision of the commissioner or of the department made pursuant to this subsection. 1007
 - (d) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, concerning the inclusion of a title brand on a certificate of title for a vessel. In adopting such regulations the commissioner shall consider whether special branding categories such as "hull damaged" shall be included on the certificate of title for a vessel.

Sec. 41. (NEW) (Effective January 1, 2015) A person aggrieved by an

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action, omission to act or decision of the commissioner or of the department under sections 12 to 43, inclusive, of this act shall be entitled, upon request, to a hearing in accordance with the provisions of chapter 54 of the general statutes.

Sec. 42. (NEW) (*Effective January 1, 2015*) A person aggrieved by an action, omission to act or decision of the commissioner or of the department under sections 12 to 43, inclusive, of this act may appeal therefrom in accordance with the provisions of section 4-183 of the general statutes, except venue for such appeal shall be in the judicial district of New Britain.

Sec. 43. (NEW) (Effective January 1, 2015) (a) A person who, with fraudulent intent: (1) Alters, forges or counterfeits a certificate of title; (2) alters or forges an assignment of a certificate of title, or an assignment or release of a security interest or a termination statement, on a certificate of title or a form the department prescribes; (3) has possession of or uses a certificate of title knowing it to have been altered, forged or counterfeited; or (4) uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title, shall be fined not less than five hundred dollars nor more than one thousand dollars or be imprisoned not less than one year nor more than five years or be both fined and imprisoned.

(b) A person who: (1) With fraudulent intent, permits another, not entitled thereto, to use or have possession of a certificate of title; (2) wilfully fails to mail or deliver a certificate of title or application therefor to the department within ten days after the time required by sections 12 to 43, inclusive, of this act; (3) wilfully fails to deliver to his transferee a certificate of title within ten days after the time required by sections 12 to 43, inclusive, of this act; or (4) wilfully violates any provision of sections 12 to 43, inclusive, of this act, except as provided in subsection (a) of this section, shall be fined not more than one thousand dollars or be imprisoned not more than two years or be both fined and imprisoned.

Sec. 44. Subdivision (2) of subsection (a) of section 14-10 of the 2012 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2012*):

(2) "Motor vehicle record" means any record that pertains to an operator's license, learner's permit, identity card, registration, certificate of title or any other document issued by the Department of Motor Vehicles. "Motor vehicle record" does not include any record relating to vessels and certificates of title for vessels, as provided in section 21 of this act;

| This act shall take effect as follows and shall amend the following | | | | | |
|---|-----------------|-------------|--|--|--|
| sections: | | | | | |
| | T | | | | |
| Section 1 | July 1, 2013 | New section | | | |
| Sec. 2 | July 1, 2013 | New section | | | |
| Sec. 3 | July 1, 2013 | New section | | | |
| Sec. 4 | July 1, 2013 | New section | | | |
| Sec. 5 | July 1, 2013 | New section | | | |
| Sec. 6 | July 1, 2013 | New section | | | |
| Sec. 7 | July 1, 2013 | New section | | | |
| Sec. 8 | July 1, 2013 | New section | | | |
| Sec. 9 | July 1, 2013 | New section | | | |
| Sec. 10 | July 1, 2013 | New section | | | |
| Sec. 11 | July 1, 2013 | New section | | | |
| Sec. 12 | January 1, 2015 | New section | | | |
| Sec. 13 | January 1, 2015 | New section | | | |
| Sec. 14 | January 1, 2015 | New section | | | |
| Sec. 15 | January 1, 2015 | New section | | | |
| Sec. 16 | January 1, 2015 | New section | | | |
| Sec. 17 | January 1, 2015 | New section | | | |
| Sec. 18 | January 1, 2015 | New section | | | |
| Sec. 19 | January 1, 2015 | New section | | | |
| Sec. 20 | January 1, 2015 | New section | | | |
| Sec. 21 | January 1, 2015 | New section | | | |
| Sec. 22 | January 1, 2015 | New section | | | |
| Sec. 23 | January 1, 2015 | New section | | | |
| Sec. 24 | January 1, 2015 | New section | | | |
| Sec. 25 | January 1, 2015 | New section | | | |
| Sec. 26 | January 1, 2015 | New section | | | |

| Sec. 27 | January 1, 2015 | New section |
|---------|-----------------|-------------|
| Sec. 28 | January 1, 2015 | New section |
| Sec. 29 | January 1, 2015 | New section |
| Sec. 30 | January 1, 2015 | New section |
| Sec. 31 | January 1, 2015 | New section |
| Sec. 32 | January 1, 2015 | New section |
| Sec. 33 | January 1, 2015 | New section |
| Sec. 34 | January 1, 2015 | New section |
| Sec. 35 | January 1, 2015 | New section |
| Sec. 36 | January 1, 2015 | New section |
| Sec. 37 | January 1, 2015 | New section |
| Sec. 38 | January 1, 2015 | New section |
| Sec. 39 | January 1, 2015 | New section |
| Sec. 40 | January 1, 2015 | New section |
| Sec. 41 | January 1, 2015 | New section |
| Sec. 42 | January 1, 2015 | New section |
| Sec. 43 | January 1, 2015 | New section |
| Sec. 44 | October 1, 2012 | 14-10(a)(2) |

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

| Agency Affected | Fund-Effect | FY 13 \$ | FY 14 \$ |
|----------------------------------|----------------|---------------|---------------|
| Department of Motor Vehicles | TF - Cost | 200,000 | 200,000 |
| Department of Motor Vehicles | TF - Revenue | None | None |
| | Gain | | |
| Judicial Dept. | GF - Potential | Indeterminate | Indeterminate |
| _ | Revenue Gain | | |
| Judicial Dept. (Probation)/Dept. | GF - Potential | Indeterminate | Indeterminate |
| of Corrections | Cost | | |

Note: TF=Transportation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill will result in an estimated total cost of \$800,000 to the Special Transportation Fund for the Department of Motor Vehicles (DMV) to create a vessel titling system. DMV is expected to phase the system in at a cost of \$200,000 per year between FY 13 and FY 16 as part of upgrading their current information technology system. This includes: (1) developing a departmental database for certificates of title for vessels and a second database containing certain information for public searches; (2) creating applications for certificates of title and other documents; and (3) mailing certificates of titles and notices.

The bill includes a penalty for specified forms of fraudulent intent and could result in potential revenue gain. The full impact is unclear as this is a new offense.

To the extent that these changes increase the likelihood that offenders would be prosecuted or receive harsher penalties than currently provided for, potential cost for incarceration and/or probation supervision in the community would result. On average, it

costs the state \$3,736 to supervise an offender on probation in the community as compared to \$44,165 to incarcerate the offender.

The Out Years

State Impact:

| Agency Affected | Fund-Effect | FY 15 \$ | FY 16 \$ | FY 17 \$ |
|------------------------------|----------------------|----------|---------------------|---------------------|
| Department of Motor Vehicles | TF - Cost | 200,000 | up to 200,000 | None |
| Department of Motor Vehicles | TF - Revenue Gain | None | 106,000- 212,000 | 106,000- 212,000 |

Note: TF=Transportation Fund

Establishing new fees for certain vessels will result in an annual revenue gain to the Special Transportation Fund of \$106,000-\$212,000 beginning in FY 16. The estimate is based on the number of vessels registered to DMV in FY 11 and assumes that 5% to 10% of the vessels registered in FY 11 were also manufactured in that year.

OLR Bill Analysis sSB 418

AN ACT ADOPTING THE UNIFORM ELECTRONIC LEGAL MATERIAL ACT AND THE UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT.

SUMMARY:

This bill enacts the Uniform Electronic Legal Material Act (UELMA) and the Uniform Certificate of Title for Vessels Act (UCOTVA).

UELMA provides for the authentication and preservation of electronic records of legal material published by the state (e.g., the General Statutes or court cases). The bill does not require the state to publish legal material electronically, but sets certain requirements if it does so and designates the record as official. Among other things, the bill specifies circumstances in which electronic records of legal material are presumed to be authentic copies of the material.

UCOTVA creates a certificate of title system for certain vessels that are principally used on Connecticut waters. It requires the Department of Motor Vehicles (DMV) to issue the certificates; sets rules for perfecting security interests on certificates and indicating transfers of interests in vessels; requires DMV to maintain certain information in indexed files for public searches; and imposes fees for DMV filings and searches.

EFFECTIVE DATE: January 1, 2015; except (1) July 1, 2013, for UELMA and (2) October 1, 2012, for the provision excluding records relating to vessels and their certificates of titles from the restrictions on DMV disclosures of personal information.

UNIFORM ELECTRONIC LEGAL MATERIAL ACT

§ 2-3 — Applicability and Definitions

The bill's UELMA provisions apply to all legal material in an electronic record that is designated as official under the bill and first published electronically on or after July 1, 2013. Thus, in addition to new material, the provisions apply to older material being converted into an electronic format if that format is designated as the official version (see below).

The following definitions apply in the bill's UELMA provisions.

"Legal material" means the following, whether or not they are in effect: the state constitution; the General Statutes; state agency regulations; and reported decisions of the state Supreme, Appellate, and Superior Courts.

The "official publisher" of legal material varies depending on the legal material. The secretary of the state is the official publisher of the state constitution and state agency regulations. The Joint Committee on Legislative Management is the official publisher of the General Statutes. The Commission on Official Legal Publications is the official publisher of reported court decisions.

A "state" means a U.S. state, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, or any territory or insular possession subject to U.S. jurisdiction.

§ 4 — Legal Material in Official Electronic Records

Under the bill, if an official publisher publishes legal material only in an electronic record, the publisher must (1) designate the electronic record as official and (2) comply with the bill's provisions on authentication (§ 5), preservation and security (§ 7), and permanent public access (§ 8).

If the official publisher publishes legal material in both an electronic and non-electronic record, it can designate the electronic record as official if it complies with the provisions noted above.

§ 5 — Authentication of Official Electronic Records

The bill requires the official publisher to authenticate an official electronic record. To do so, the publisher must provide a way for a user to determine that the record he or she receives from the official publisher is the same as the version that the publisher designated as the official version. (The bill does not specify how a publisher might do this.)

§ 6 — Effect of Authentication

Under the bill, authenticated legal material in an electronic record is presumed to be an accurate copy of the legal material. Someone contesting such an authentication has the burden of proving by a preponderance of the evidence that the record is not authentic.

The bill provides that if another state has adopted a law substantially similar to the bill's UELMA provisions, and an official publisher in that state designates as official and authenticates legal material in an electronic record, the record is presumed to be an accurate copy of the material.

§ 7 — Preservation and Security

The bill requires an official publisher of legal material in an electronic record that is or was designated as official to provide for the record's preservation and security, in either electronic form or otherwise. Publishers that preserve such material electronically must (1) ensure the record's integrity, (2) provide for its backup and recovery in case of disaster, and (3) ensure the material's continuing usability.

§ 8 — Public Access

Official publishers of legal material in an electronic record that must be preserved under the bill must ensure that the material is reasonably and permanently available for public use.

§ 9 — Standards

The bill requires official publishers of legal material in electronic records, in implementing the bill's UELMA provisions, to consider:

- 1. other jurisdictions' standards and practices;
- the most recent standards promulgated by national standardsetting bodies, and any standards or guidelines that the state librarian or public records administrator establishes, regarding authentication of, preservation and security of, and public access to, legal material in an electronic record and other electronic records;
- 3. the needs of the material's users;
- 4. the views of governmental officials, governmental entities, and other interested persons; and
- 5. to the extent practicable, methods and technologies for giving public access to and authenticating, preserving, and securing legal material, that are compatible with those used by other official publishers in Connecticut and other states that have adopted a law substantially similar to UELMA.

§ 10 — Uniformity of Application and Construction

The bill specifies that in applying and construing UELMA, consideration must be given to the need to promote uniformity of law with respect to its subject matter among states that enact UELMA.

§ 11 — E-SIGN Act

The bill provides that its UELMA provisions modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce (E-SIGN) Act. But they do not (1) modify, limit, or supersede E-SIGN's provisions on consumer disclosures (such as when consumers are considered to have consented to electronic disclosures) or (2) authorize electronic delivery of specified notices that are not subject to E-SIGN (see BACKGROUND).

UNIFORM CERTIFICATE OF TITLE FOR VESSELS ACT

§§ 16-17 — Certificate Requirement

The bill requires the owner of certain vessels principally used in

Connecticut to apply to DMV, with the appropriate fee, for a certificate of title within 20 days after the later of (1) transferring ownership or (2) Connecticut becoming the state on whose waters the vessel is or will be used, operated, navigated, or employed more than on the waters of any other state during a calendar year (i.e., state of principal use).

Under the bill, a vessel becomes covered by a certificate of title when an application and fee are delivered to (1) DMV or (2) the agency that creates a certificate in another jurisdiction. The law of the jurisdiction of the vessel's certificate of title governs all issues relating to the certificate from the time the certificate covers the vessel until it (1) is covered by another certificate or (2) becomes a documented vessel. This applies even if there is no relationship between the jurisdiction and the vessel or its owner.

§§ 13 & 17 — Vessels Excluded from the Certificate Requirement

The bill does not require a certificate of title for a:

- 1. vessel designated by the manufacturer as having a model year of 2015 or earlier;
- 2. vessel manufactured or assembled prior to January 1, 2016, for which the manufacturer or assembler has not designated a model year, other than a vessel (a) for which another state has issued a certificate when Connecticut becomes the state of principal use or (b) having Connecticut as the state of principal use that was a documented vessel or a foreign documented vessel when it becomes no longer such a vessel;
- documented vessel (a vessel covered by a certificate of documentation issued by the U.S. Coast Guard under federal law, which applies to some large vessels and those owned by a federal entity);
- 4. foreign-documented vessel (a vessel recorded in another country's registry that identifies ownership interests and includes a unique alphanumeric designation for the vessel);

5. barge (a vessel that is not self-propelled or fitted for propulsion by sail, paddle, oar, or similar device);

- 6. vessel before delivery if it is under construction or completed under a contract;
- 7. vessel held by a dealer for sale or lease;
- 8. seaplane;
- 9. amphibious vehicle covered by a motor vehicle certificate of title in this or another state;
- 10. watercraft less than 19.5 feet in length and propelled solely by sail, paddle, or oar;
- 11. watercraft operating only on a permanently fixed, manufactured course with movement restricted to or guided by a mechanical device that is attached to or controls the watercraft;
- 12. stationary floating structure that (a) does not have and is not designed to have its own mode of propulsion; (b) needs a continuous hookup to shore for utilities; and (c) does not have sewage facilities or has a permanent, continuous hookup to shore for sewage;
- 13. watercraft owned by the United States, a state, a foreign government, or a political subdivision; or
- 14. lifeboat on another watercraft.

§ 18 — Certificate Application Requirements

With exceptions specified in the bill, only an owner can apply for a certificate of title. The owner must file and sign an application form approved by the DMV commissioner, containing:

1. the applicant's name, principal residential street address, and, if different, mailing address;

- 2. the name and mailing address of other owners of the vessel;
- 3. the vessel's hull identification number or an application to the Department of Energy and Environmental Protection for one;
- 4. the vessel number or an application for one (existing law requires owners to register vessels and obtain vessel registration numbers from DMV);
- 5. a description of the vessel as required by DMV, including (a) any official number assigned by the U.S. Coast Guard; (b) the manufacturer's, builder's, or maker's name; (c) the vessel's model year or the year its construction was completed; and (d) the vessel's overall length, type, hull material, propulsion type, engine drive type, and fuel type;
- 6. all security interests in the vessel known to the applicant and the secured parties' names and mailing addresses;
- 7. a statement that the vessel is not a documented or foreign-documented vessel;
- 8. if the application is made because of a transfer of ownership, the transferor's name, street address and, if different, mailing address; sales price, if any, and transfer date;
- 9. if the vessel previously was registered or titled in another jurisdiction, a statement identifying each jurisdiction known to the applicant in which the vessel was registered or titled; and
- 10. any further information the DMV commissioner reasonably requires to identify the vessel and determine whether the owner is entitled to a certificate and the existence or nonexistence of security interests.

The bill allows an application for a certificate of title to contain the owner's, transferor's, or secured party's email address.

With exceptions specified in the bill, the bill also requires the

application to include a certificate of title signed by the owner shown on the certificate that (1) identifies the applicant as the owner or (2) is accompanied by a record that identifies the applicant as the owner. When there is no certificate of title, the owner must submit:

- 1. if the vessel was a federally-documented vessel, a U.S. Coast Guard record showing the (a) vessel is no longer a documented vessel and (b) applicant is the owner;
- 2. if the vessel was a foreign-documented vessel, a record from the foreign country showing the (a) vessel is no longer a foreign-documented vessel and (b) applicant is the owner; or
- 3. in all other cases, a certificate of origin (a record created by a manufacturer or importer as the proof of a vessel's identity, but not a builder's certificate), bill of sale, or other record that, to DMV's satisfaction, identifies the applicant as the owner.

The bill makes a record submitted in connection with an application part of the application and requires DMV to keep the record in its files.

Under the bill, DMV may also require payment or evidence of payment of any or all fees and taxes payable by the applicant under state law, other than fees paid in connection with the application or the acquisition or use of the vessel.

§ 19 — Creation, Rejection, or Cancellation of a Certificate

The bill requires DMV to create a certificate for a vessel after delivery of an application that satisfies the bill's requirements. But it can reject an application if:

- 1. it does not comply with the bill or state law;
- 2. it does not contain sufficient documentation to determine whether the applicant is entitled to a certificate;
- 3. there is a reasonable basis to conclude that the application is fraudulent or issuing a certificate would facilitate fraud or an

illegal act; or

4. the vessel is a documented or a foreign-documented vessel.

The bill allows DMV to cancel (make ineffective) a certificate it created if DMV:

- 1. could have rejected the application under the bill's requirements,
- 2. is required to cancel it under the bill's provisions, or
- 3. receives satisfactory evidence that the vessel is a documented or foreign-documented vessel.

§§ 20 & 40 — Contents of Certificate

The bill requires a certificate of title to contain:

- 1. the date it was created;
- 2. the owner of record's name and mailing address and, if not all owners are listed, an indication that there are additional owners in DMV's files;
- 3. the hull identification number;
- 4. a description of the vessel including the information the owner must submit in the application;
- 5. except as otherwise provided in the bill, the name and mailing address of the secured party of record and, if not all secured parties are listed, an indication that there are other security interests in DMV's files; and
- 6. other data the DMV commissioner requires.

The bill permits DMV to note on a certificate the name and mailing address of a secured party that is not a secured party of record.

If DMV's files indicate that a vessel was previously registered or titled in a foreign country, the bill requires DMV to indicate on the

certificate that the vessel was registered or titled in that country.

The bill requires a written certificate of title to contain a form that (1) allows all owners indicated on the certificate to sign to consent to a transfer of an ownership interest and (2) includes a certification, signed under penalty of false statement, that the statements made are true and correct to the best of each owner's knowledge, information, and belief.

The bill specifies that the information required under this provision is a public record unless the law provides otherwise (§ 21(e)).

Required Statement. The bill requires a certificate of title to state that the vessel may be subject to security interests not shown on the certificate when (1) Connecticut becomes the vessel's state of principal use in place of another state; (2) the vessel was not a documented or foreign-documented vessel immediately before the certificate application; and (3) the vessel's immediately previous state of principal use did not issue or does not require a certificate of title for the vessel.

§§ 19 & 22 — Written or Electronic Certificates

The bill imposes the following rules on creating written or electronic certificates.

- 1. If DMV creates electronic certificates of title, it can only issue a written one if requested in an application by the (1) secured party of record (the secured party indicated in DMV's files or the first secured party indicated if there is more than one) or (2) if none, the owner of record (the owner indicated in DMV's files or the first owner indicated if there is more than one).
- 2. DMV must send a written certificate to the secured party of record or, if none, the owner of record, at the person's address in DMV's files.
- 3. DMV must send a record evidencing an electronic certificate to the owner of record and, if there is one, the secured party of

record, at the person's mailing address or, if indicated, electronic address.

4. Creating a written certificate cancels an electronic certificate and DMV must maintain the date and time of cancellation in its files.

- 5. A person holding a written certificate must surrender it to DMV before DMV can create an electronic certificate.
- 6. If DMV creates an electronic certificate, it must destroy or cancel the surrendered written certificate and maintain the date and time of destruction or cancellation in its files. If a written certificate is not destroyed, DMV must indicate on the certificate's face that it has been canceled.

§ 23 — Effect of Certificate

The bill makes a certificate of title prima facie evidence of the accuracy of the information in it and a certified copy of it is prima facie evidence of ownership in a criminal proceeding.

§ 32 — Replacement Certificates

When a written certificate of title is lost, stolen, mutilated, destroyed, or becomes unavailable or illegible, the bill allows a secured party of record or, if there is none in DMV's files, the owner of record, to apply for a replacement certificate. The application must be signed and, except as otherwise permitted by DMV, meet the requirements for an original application. The application must include the existing certificate unless it is unavailable.

The bill requires a replacement certificate to contain the same information as an original certificate with an indication that it is a replacement certificate. If a person receiving a replacement certificate subsequently obtains the original written certificate, he or she must destroy the original.

§§ 21 & 44 — Documents and Information in DMV Files

For each record relating to a certificate of title, the bill requires DMV

to maintain (1) the hull identification number and (2) all the information submitted with the application to which the record relates, including the date and time the record was delivered to DMV. DMV must maintain the files for public inspection and index them.

DMV must maintain in its files (1) the information contained in all certificates it creates, searchable by the vessel's number and hull identification number, owner of record's name, and any other method DMV uses; (2) all secured parties and people claiming an ownership interest that DMV knows about; and (3) all stolen-property reports received.

The bill requires DMV to give federal, state, or local governments the information in its files relating to any vessel for which it issued a certificate, on request for safety, security, or law-enforcement purposes.

The bill exempts records related to vessels and their certificates of title from the law's restrictions on DMV disclosing personal information or permitting inspection of motor vehicle records containing personal information.

§ 35 — DMV Retention of Evidence and Information

The bill requires DMV to retain:

- 1. the evidence used to determine the accuracy of information in its files relating to the current ownership of a vessel and the information on the certificate of title and
- 2. all information received regarding a security interest in a vessel for at least 10 years after receiving a termination statement for the security interest, with the information accessible by hull identification number and other methods the department provides.

§ 35 — Requests to DMV for Information

The bill requires DMV to send or make available in a record certain

information to anyone that requests it and pays all applicable fees. Generally, DMV must disclose whether its files include a certificate of title, security interest, or termination statement for a vessel identified by a hull identification or vessel number or owner. The information must be as of a date specified by DMV, but no more than 10 calendar days before receiving the request. For a request related to a vessel, DMV must provide:

- 1. the name and address of any owner or secured party in the files or on the certificate of title, the effective date of information related to a secured party, and a copy of any termination statement in the files and its effective date and
- 2. a copy of any certificate of origin, secured party transfer statement, transfer-by-law statement, and other evidence of previous or current transfers of ownership.

The bill allows DMV to provide requested information in any medium but, on request and payment of fees, in a written document.

Acknowledgment of Submissions. The bill allows a person who submits a record or information to DMV to request an acknowledgment of the submission. DMV must send an acknowledgment showing the (1) hull identification number of the vessel to which the record or submission relates, (2) information in the filed record or submission, and (3) date and time the record was received or the submission accepted. The request must contain the hull identification number and be delivered by a DMV-authorized means.

§§ 39 & 40 — DMV Forms and Fees

The bill requires the DMV commissioner to prescribe and provide suitable forms for applications, certificates of title, notices of security interests, and all other notices and forms necessary to carry out the bill's provisions.

The bill sets the following DMV fees:

- 1. \$25 for filing an application for a certificate of title;
- 2. \$10 for each security interest or assignment of one noted on a certificate or maintained in the electronic title file;
- 3. \$20 for each record copy search;
- 4. \$25 for an application for a duplicate certificate (but a fee for the duplicate certificate is not required);
- 5. \$10 for filing (a) a notice of a security interest, (b) an assignment of a security interest, or (c) a termination statement relating to a security interest;
- 6. \$25 for filing a (a) secured party's transfer statement or (b) transfer-by-law statement;
- 7. \$25 for filing an application for transfer of ownership or termination of a security interest without a certificate of title;
- 8. \$20 for each name or hull identification number in a certificate of search of the DMV records;
- 9. \$20 for search of a vessel certificate of title record, when requested by someone other than the vessel's owner of record; and
- 10. \$20 for a certified copy of any documentation, information, or record maintained or created by DMV.

The bill requires DMV to collect a penalty in an amount equal to the corresponding transaction fee when an application, certificate, or other document to be mailed or delivered to DMV is not delivered within 10 days from the bill's deadline for mailing or delivery.

The bill exempts from the fees vessels (1) leased to a state agency or (2) owned by the state, a state agency, or a municipality.

§§ 40-42 — DMV Proceedings, Rules, and Regulations

To carry out the bill's provisions, the commissioner can (1) conduct necessary investigations to procure required information and (2) adopt and enforce reasonable rules.

The bill requires the commissioner to adopt regulations about including title brands (a designation of previous damage, use, or condition) on certificates of title. The commissioner must consider whether special branding categories like "hull damaged" should be included.

The bill allows the commissioner to adopt regulations to (1) implement the bill's provisions and (2) place additional indications on a certificate concerning the condition or status of a vessel's title. These regulations must provide an opportunity for a hearing for anyone aggrieved by any DMV action, omission, or decision. Under the bill, anyone aggrieved by a DMV action, omission, or decision (1) is entitled to an administrative hearing on request and (2) can appeal to the Superior Court in the judicial district of New Britain after completing the administrative proceedings.

§§ 13 & 25 — Security Interests in Vessels

By law, a creditor's interest (a "security interest") can attach to the debtor's property. A secured party who "perfects" his or her security interest has priority over other parties, such as a creditor who gets a judicial lien, bankruptcy trustee, and others who later take a security interest in the collateral.

Under the bill, a security interest in a vessel is generally the same as for other secured transactions. The bill specifies that it does not include the special property interest of a buyer of a vessel on identification of that vessel to a contract for sale but a buyer may also acquire a security interest by complying with the secured transaction laws. Except as provided in other law, the bill provides that a seller's or lessor's rights under the Uniform Commercial Code to retain or acquire possession of the vessel is not a security interest, but they may acquire a security interest by complying with the secured transactions law. The retention

or reservation of title by a seller of a vessel notwithstanding shipment or delivery to the buyer under the Uniform Commercial Code's provisions is limited to a reservation of a security interest.

Under current law, a security interest in a vessel is usually perfected by filing a financing statement in the secretary of the state's office. The bill instead requires filing an application with DMV (1) for a certificate of title or (2) to add a security interest to a certificate already created by DMV.

For an application for a certificate of title, the bill specifies that identifying someone as owner, lessor, consignor, or bailor alone does not make someone a secured party.

When a DMV-issued certificate of title already exists, the bill allows DMV to set the application form but requires it to include the owner's or secured party's signature and the:

- 1. owner of record's name;
- 2. secured party's name and mailing address;
- 3. vessel's hull identification number; and
- 4. certificate, if DMV created a written one.

When Security Interest Perfected. Under the bill, perfection occurs on the later of the application's delivery and payment of applicable fees to DMV or attachment of the security interest under the law on secured transactions.

New Certificate. On delivery of an application and payment of applicable fees, the bill requires DMV to create a new certificate and deliver it in the same way as when it creates an original certificate. DMV must maintain in its files the date and time of an application's delivery to the department.

Assignment. Under the bill, if a secured party assigns a perfected security interest in a vessel, DMV need not receive a statement

providing the assignee's name as secured party to continue the perfected status of the security interest against creditors of, and transferees from, the original debtor. But a purchaser who obtains a release from the secured party indicated in the DMV files or on the certificate takes free of a transferee's security interest and rights unless the transfer is indicated in DMV's files or on the certificate.

Exceptions from the Bill's Requirements. The bill excludes from these provisions security interests in a vessel:

- 1. that is inventory held for sale or lease by the person creating the interest;
- 2. that is leased by the person as lessor if the person is in the business of selling vessels;
- 3. for which a certificate of title is not permitted (or a barge, for which a certificate is not required); or
- 4. before delivery if the vessel is under construction, or completed, pursuant to contract and for which no application for a certificate has been delivered to DMV.

Other Provisions. The bill preserves perfection of a security interest for four months or until it is perfected under the bill, whichever is sooner, when (1) a certificate of documentation for a documented vessel is deleted or canceled and (2) a security interest in the vessel was valid immediately before deletion or cancellation against a third party as a result of compliance with federal law.

For certain types of security interests in a vessel, the bill specifies that the interest is perfected on attachment but becomes unperfected when the debtor possesses the vessel, unless the security interest is perfected under the bill. This applies to Uniform Commercial Code provisions governing reservations of security interests after passage of title or a seller's shipment of goods and a buyer's or lessee's security interest on rejection of goods.

The bill requires provisions of other secured transactions law to apply to security interests (1) in a vessel as proceeds of other collateral or (2) perfected under the law of another jurisdiction.

§ 26 — Termination Statement by Secured Party

Under the bill, a security interest ceases to be perfected when a termination statement authorized by the secured party is delivered to DMV. The bill sets the following rules for these termination statements.

- 1. A secured party must deliver a termination statement on a DMV-prescribed form and, on the debtor's request, to the debtor within (a) 20 days after receiving a signed demand for a termination statement from an owner, when there is no obligation secured by the vessel and no commitment to make advances, incur obligations, or give value secured by the vessel or (b) if the vessel is a consumer good, 30 days after there is no obligation secured by the vessel and no commitment to make advances, incur obligations, or give value secured by the vessel.
- 2. When a termination statement is required and the secured party has a DMV-issued written certificate of title, the secured party must deliver the certificate to the debtor or DMV with the statement. If the certificate is lost, stolen, mutilated, destroyed, unavailable, or illegible, the bill requires the secured party to deliver with the statement an application for a replacement certificate.
- 3. If the security interest was indicated on the certificate of title, DMV must create a new certificate and deliver it or a record evidencing an electronic certificate. DMV must maintain in its files the date and time the statement was delivered.
- 4. A secured party who does not comply with these requirements is liable for (a) any loss that the secured party had reason to know might result from failure to comply and that could not reasonably have been prevented and (b) the cost of an

application for a certificate of title.

The bill allows the DMV commissioner to require a secured party to submit a termination statement electronically.

§ 38 — Security Interests Created Before the Bill's Effective Date

A security interest enforceable before January 1, 2015 (the date this provision of the bill takes effect) that has priority over the rights of someone who becomes a lien creditor at that time is a perfected security interest under the bill. Under the bill, a "lien creditor" is a creditor with a lien on the vessel by attachment, levy, or similar means; an assignee for benefit of creditors from the time of assignment; a trustee in bankruptcy from the date of the filing of the petition; or a receiver in equity from the time of appointment.

A security interest in a vessel that is required to have a certificate of title under the bill that is perfected before January 1, 2015 remains perfected until (1) the time perfection would end under the law that the perfection was created or (2) January 1, 2018, whichever is earlier.

The bill does not affect the priority of a security interest that was enforceable and perfected and had its priority established before January 1, 2015.

§ 34 — Rights of Secured Parties

The bill provides that perfection, nonperfection, and priority of a security interest with respect to a purchaser's or creditor's rights, including a lien creditor, are governed by the Uniform Commercial Code with the following exception.

If a security interest in a vessel is perfected under the bill's provisions and DMV creates a certificate of title that does not indicate that the vessel is subject to the security interest or contain a statement that it may be subject to security interests not indicated on the certificate:

1. a buyer of the vessel, other than a person in the business of

selling or leasing vessels of that kind, takes free of the security interest if the buyer, acting in good faith and without knowledge of the security interest, gives value and receives possession of the vessel and

2. the security interest is subordinate to a conflicting security interest in the vessel perfected under the bill's provisions after creation of the certificate and without the conflicting secured party's knowledge of the security interest.

§§ 27 and 29-31 — Transfers

Voluntary Transfer of Ownership Interest (§ 27). The bill sets the following rules for voluntarily transferring an ownership interest in a vessel covered by a certificate of title.

- 1. If the certificate of title is written and notes the transferor's interest, the transferor must sign it and deliver it to the transferee. If the transferor does not possess the certificate, the person who does must help the transferor comply with this requirement. A secured party does not have a duty to do so if the security agreement prohibits the proposed transfer.
- 2. If the certificate of title is electronic, the transferor must sign and deliver to the transferee a record showing the transfer of ownership.
- 3. The transferee can require the transferor to perform these duties to meet these requirements.

Creating a certificate of title that identifies the transferee as the owner of record satisfies the bill's requirements.

Failing to comply with these provisions or apply for a new certificate does not make the transfer ineffective. But, except as otherwise provided by the bill, a transfer that does not comply with these provisions is not effective against another person claiming an interest in the vessel.

The bill provides that a transferor who complies with these provisions is not liable as an owner for events occurring after the transfer, regardless of whether the transferee applies for a new certificate of title.

Secured Party's Transfer Statement (§ 29). The bill allows a secured party to file a "secured party's transfer statement" with DMV when the secured party has a right to transfer ownership in the vessel due to default on an obligation.

Under the bill, the secured party must sign the statement which indicates:

- 1. there has been a default on an obligation to the secured party of record secured by the vessel;
- 2. the secured party of record is exercising or has exercised postdefault remedies with respect to the vessel and, as a result, the secured party of record has the right to transfer an owner's interest (and must state the owner's name);
- 3. the name and last-known mailing address of the owner of record and the secured party of record;
- 4. the transferee's name;
- 5. other information that the bill requires in an application for a certificate; and
- 6. either the (a) certificate of title is electronic or (b) the secured party is delivering the written certificate of title to DMV with the transfer statement or does not possess the written certificate created in the owner of record's name.

After delivery of the statement, fees, and taxes to DMV (other than fees connected with the statement or the acquisition or use of the vessel), the bill requires DMV to:

1. accept the statement;

- 2. amend its files to reflect the transfer; and
- 3. if the name of the owner whose ownership interest is being transferred is indicated on the certificate of title, (a) cancel the certificate even if the certificate has not been delivered to DMV, (b) create a new certificate with the transferee as owner, and (c) deliver the new certificate or a record evidencing an electronic certificate.

The bill allows DMV to reject a secured party's transfer statement if (1) the application does not comply with the bill's or existing law's requirements, (2) the application lacks information to determine the applicant is entitled to a certificate, or (3) there is a reasonable basis to conclude that the application is fraudulent or issuance would facilitate fraud or illegal acts.

An application or creation of a certificate of title under these provisions does not dispose of the vessel or relieve the secured party of its duties under the law on secured transactions.

Transfer by Operation of Law (§ 30). The bill allows a transferee to sign a "transfer-by-law statement" stating that he or she has acquired or has the right to acquire an ownership interest in a vessel pursuant to law or judicial order (1) because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy; (2) through exercising the rights of a lien creditor or a person having a lien created by statute or rule of law; or (3) through some other legal process.

Under the bill, a transfer-by-law statement must contain:

- 1. the name and last known mailing address of the owner of record and transferee and other information required in an application for a certificate;
- 2. documentation sufficient to establish the transferee's ownership interest or right to acquire the ownership interest;

3. a statement that the (a) certificate of title is electronic or (b) transferee is delivering the written certificate to DMV with the statement or does not possess the written certificate created in the name of the owner of record; and

4. except for transfers because of death, divorce, or other family law proceeding, merger, consolidation, dissolution, or bankruptcy, evidence that notification of the transfer and the intent to file the transfer-by-law statement has been sent to all people indicated in the department's files as having an interest, including a security interest, in the vessel.

The bill requires DMV to accept the statement after delivery and payment of fees and taxes, except for those under the bill. DMV must:

- 1. amend its files to reflect the transfer and
- 2. if the name of the owner whose interest is being transferred is indicated on the certificate of title, (a) cancel the certificate even if the certificate has not been delivered to the department; (b) create a new certificate indicating the transferee as owner; (c) indicate on the new certificate any security interest indicated on the canceled certificate, unless a court order provides otherwise; and (d) deliver the new certificate or a record evidencing an electronic certificate.

The bill allows DMV to reject a transfer-by-law statement for the same reasons it may reject a secured party's transfer statement or if the statement does not include satisfactory documentation as to the transferee's ownership interest or right to acquire the ownership interest.

The bill specifies that these provisions do not apply to a transfer of an interest in a vessel by a secured party on default.

Application for Transfer of Ownership or Termination of Security Interest Without Certificate (§ 31). If DMV receives an application for a new certificate due to transfer of ownership or a

termination statement from a secured party, without a signed certificate, the bill allows DMV to create a new certificate if the:

- 1. bill's requirements for creating a certificate are met;
- 2. applicant provides an affidavit showing he or she is entitled to a transfer of ownership or termination statement;
- 3. (a) applicant provides satisfactory evidence in a DMV-prescribed form that notification of the application has been sent to the owner of record and all people indicated in DMV's files as having an interest in the vessel, (b) at least 45 days have passed since notice was sent, and (c) DMV has not received an objection; and
- 4. applicant submits any other information DMV requires as evidence of ownership or the right to terminate a security interest and there is no credible information of theft, fraud, or an undisclosed or unsatisfied security interest, lien, or other claim to an interest in the vessel.

The bill requires DMV to indicate on a new certificate that it was created without having a signed certificate or termination statement. If DMV does not receive credible information of theft, fraud, or an undisclosed or unsatisfied claim within one year after creation of the certificate, it must remove the indication from the certificate on request.

Before creating a certificate for a vessel with a value of at least \$5,000, the bill allows DMV to require the applicant to post a bond or provide an indemnity or security equal to twice the vessel's value. The bond, indemnity, or security must be in a form required by DMV and provide for indemnification of any owner, purchaser, or claimant for any expense, loss, delay, or damage. This includes reasonable attorney's fees and costs but not incidental or consequential damages resulting from creation or amendment of the certificate.

If DMV does not receive a claim within one year of creating a

certificate, the bill requires it to release any bond, indemnity, or security on request in a form and manner it requires.

§§ 14-15, 24, and 36-38 — Application

The bill provides the following rules for application of its provisions.

- 1. The bill's provisions apply to any transaction, certificate of title, or record relating to a vessel, even if the transaction was entered into or the document created before January 1, 2015.
- 2. The rights, duties, and interests from a transaction, certificate of title, or record relating to a vessel that was validly entered into or created before January 1, 2015 that would have been subject to the bill's provisions, remain valid.
- 3. The bill does not affect an action or proceeding begun before January 1, 2015.
- 4. Unless the bill's provisions provide otherwise, the principals of law and equity supplement them.

The bill specifies that:

- 1. possession of a certificate of title does not in and of itself provide a right to obtain possession of a vessel;
- 2. garnishment, attachment, levy, replevin, or other judicial process against the certificate is not effective to determine possessory rights to the vessel;
- 3. it does not prohibit enforcement under other law of a security interest in, levy on, or foreclosure of a statutory or common law lien on a vessel; and
- 4. absence of an indication of a statutory or common law lien on a certificate does not invalidate the lien.

In applying and construing the bill's provisions, the bill requires

consideration of the need to promote uniformity with respect to its subject matter among states that have enacted the uniform provisions.

The bill contains the same provision for UCOTVA as it does for UELMA regarding superseding the federal E-SIGN Act (see § 11 above and BACKGROUND).

§ 28 — Inaccurate or Incomplete Information

A certificate of title or other record required or authorized by the bill is effective even if it contains incorrect information or does not contain required information, subject to the law regarding priority of security interests in goods covered by a certificate of title.

§ 33 — Buyers in the Ordinary Course of Business

Except as otherwise provided in the bill, the bill specifies that the rights of a vessel's purchaser, who is not a buyer in the ordinary course of business or a lien creditor, are governed by the Uniform Commercial Code. A buyer in the ordinary course of business has certain protections in the Uniform Commercial Code even if (1) an existing certificate of title was not signed and delivered to the buyer or (2) a new certificate listing the buyer as owner of record was not created. The protections concern (1) goods entrusted to a merchant with power to transfer rights to a buyer in the ordinary course and (2) buyers in the ordinary course generally taking free of a security interest created by the seller even if the security interest is perfected and the buyer knows about it.

§ 43 — Penalties for Fraud

The bill punishes, with one to five years in prison, a fine of \$500 to \$1,000, or both, anyone who, with fraudulent intent:

- 1. alters, forges, or counterfeits a certificate of title;
- 2. alters or forges an assignment of a certificate of title or an assignment or release of a security interest or a termination statement, on a certificate of title or DMV form;

3. possesses or uses a certificate of title knowing it is altered, forged, or counterfeited; or

4. uses a false or fictitious name or address, makes a material false statement, fails to disclose a security interest, or conceals any other material fact in an application for a certificate of title.

The bill punishes, with up to two years in prison, a fine of up to \$1,000, or both, anyone who:

- 1. with fraudulent intent, permits someone who is not entitled to do so to use or possess a certificate of title;
- 2. willfully fails to mail or deliver a certificate of title or application to DMV within 10 days after the time required by the bill;
- 3. willfully fails to deliver to a transferee a certificate of title within 10 days after the time required by the bill; or
- 4. willfully violates any of the bill's provisions where the bill does not provide a criminal penalty.

BACKGROUND

E-SIGN

The federal Electronic Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. § 7001 et seq.) validates the use of electronic records and signatures. Connecticut has also enacted the Connecticut Uniform Electronic Transactions Act (CUETA) (CGS §§ 1-266 to -286), which also validates the use of such records and signatures. The two overlap significantly, although they are not identical. For example, E-SIGN applies only to interstate transactions, not intrastate transactions. CUETA provides that it supersedes, modifies, and limits the federal law except for E-SIGN's consumer disclosure provisions (CGS §§ 1-286).

The federal E-SIGN law specifies that the following notices are not subject to it:

1. court orders or notices, or official court documents required to be executed in connection with court proceedings;

- 2. utility cancellation or termination notices;
- 3. notices of eviction, foreclosure, repossession, acceleration, default, or the right to cure, under a rental agreement or a credit agreement secured by someone's primary residence;
- 4. notices that life insurance benefits, health insurance, or health insurance benefits are being cancelled or terminated, other than with respect to annuities;
- 5. notices of the recall or material failure of products that could endanger health or safety; and
- 6. documents required for transporting or handling hazardous material, pesticides, or other toxic or dangerous material (15 U.S.C. § 7003(b)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute Yea 45 Nay 0 (04/02/2012)